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**UTAH LABOR COMMISSION**

**SCOTT C. ELMER,**

**Petitioner,**

**vs.**

**SAVAGE ASPHALT PAVING &  
CONSTRUCTION and LIBERTY  
MUTUAL INSURANCE CO.,**

**Respondents.**

**ORDER DENYING REQUEST  
FOR RECONSIDERATION**

**Case No. 03-1074**

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Scott C. Elmer asks the Utah Labor Commission to reconsider its prior decision denying Mr. Elmer's claim for benefits under the Utah Occupational Disease Act ("the Act"; Title 34A, Chapter 3, Utah Code Annotated).

The Labor Commission exercises jurisdiction over this matter pursuant to Utah Code Annotated § 63-46b-13.

**BACKGROUND AND ISSUES PRESENTED**

Mr. Elmer claimed occupational disease benefits from Savage Asphalt Paving & Construction for medical problems allegedly caused by the cumulative stress of Mr. Elmer's work as a heavy equipment operator. Mr. Elmer and Savage submitted conflicting medical opinions regarding the cause of Mr. Elmer's medical problems. Judge Hann appointed a panel of independent medical experts to evaluate the medical aspects of Mr. Elmer's claim. The medical panel concluded that Mr. Elmer's work for Savage was not the cause of his medical problems. Judge Hann accepted the medical panel's opinion and denied Mr. Elmer's claim for benefits.

Mr. Elmer then requested Commission review of Judge Hann's decision. On November 15, 2007, the Commission issued its decision affirming Judge Hann's denial of Mr. Elmer's claim. Mr. Elmer now asks the Commission to reconsider its decision. Specifically, Mr. Elmer renews his argument that the Commission should reject the medical panel's opinion and, instead, accept the opinions of Mr. Elmer's treating physicians that his work at Savage caused his medical problems.

**DISCUSSION**

The fundamental question presented in this matter is whether Mr. Elmer's work caused or aggravated his medical problems. Because the parties' own medical experts disagreed on this point, it was necessary for Judge Hann to refer the question to an impartial panel of medical experts. The medical panel found no causal connection between Mr. Elmer's work and his medical conditions.

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Although Mr. Elmer disagrees with the panel's conclusions, the Commission's previous decision has explained that the Commission views the panel's report as persuasive because of the panel's expertise and impartiality, and the panel's thorough evaluation of all the available medical information. After considering the arguments submitted in Mr. Elmer's request for reconsideration, the Commission again concludes that the medical panel's opinion is persuasive and therefore reaffirms its finding that Mr. Elmer's medical problems were not caused or aggravated by his work at Savage.

**ORDER**

The Commission denies Mr. Elmer's request for reconsideration. It is so ordered.

Dated this 14<sup>th</sup> day of January, 2008.

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Sherrie Hayashi  
Utah Labor Commissioner

**NOTICE OF APPEAL RIGHTS**

Any party may appeal this Order to the Utah Court of Appeals by filing a Petition For Review with that Court within 30 days of the date of this Order.